

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – APRIL 18, 2007**

CALL TO ORDER

Mayor/Chairman Tate called the meeting to order at 7:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Lee, and Mayor/Chairman Tate
Late: Council/Agency Member Sellers (arrived at 7:03 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

Mayor Tate indicated that Peter Anderson, Morgan Hill Sister Cities organization, would be introducing the Group Study Exchange Team from Buenos Aires, Argentina sponsored by the Rotary Club of Morgan Hill.

Peter Anderson said that the Rotary Club is an organization that is a worldwide, non-profit, and service oriented organization. He indicated that there are more than a million Rotarians in the world, and that they donate to a foundation that supports many scholarships. One scholarship supported is a vocational exchange where young professionals exchange positions with other young professionals in a different country. He informed the Council/Agency Board that the Rotary Club of Morgan Hill has a group of young professionals from Buenos Aires, Argentina visiting Morgan Hill; meeting other individuals who practice in their same professions. He stated that the Rotary Club of Morgan Hill has sent a similar group to Buenos Aires, and that both groups will be meeting later this month. He introduced Raul Monteo, Rotarian group team leader

Mr. Monteo introduced the young professionals in attendance this evening: Maria Julietta Gutierrez, political scientist; Emiliano Chiarelli, attorney; Paula Aulicino, biochemist; and Stella Maris Buggiano, architect.

PROCLAMATIONS

Mayor Tate presented a proclamation to Dena Campeau, Lori Escobar, and Hallie Kiernan, proclaiming the month of April 2007 as *Alcohol Awareness Month*.

Hallie Kiernan informed the Council that the youth advocates of the Community Substance Abuse Prevention Partnership are creating an educational video on alcohol use that addresses/explains what teens are doing about its use in Morgan Hill and San Martin.

Mayor Tate presented a proclamation to David Cohen, Morgan Hill Community Law Enforcement Foundation, and Chief of Police Bruce Cumming; proclaiming April 21, 2007 as *Community Law Enforcement Foundation Public Safety Day*. He announced that a Public Safety Fair/Open House will be taking place Saturday, April 21, 2007 from 1-5 p.m. at the Police Department.

David Cohen stated that we are often reminded of the importance of the individuals who provide public safety, in both the police and fire departments. It is his hope that the community will join the Community Law Enforcement Foundation on Saturday in order to become familiar with the Police Department, and with the wonderful men and women who staff this Department.

The proclamation proclaiming *National Architecture Week* was deferred to a future meeting date.

Mayor Tate presented a proclamation to Rosanne Macek, Community Librarian; and Emily Shem-Tov, and Robert Boyd, Morgan Hill Library, Culture & Arts Commissioners; proclaiming April 15-21, 2007 as *National Library Week*.

Rosanne Macek announced the library programs taking place this month.

RECOGNITIONS

Mayor Tate read a Certificate of Recognition presented to the City Council from Gallery Morgan Hill, in recognition/appreciation of the City's dedication to supporting the downtown as a hub for the community. Gallery Morgan Hill thanked the Council for the construction Depot Street. He thanked Gallery Morgan Hill for their recognition of the City of Morgan Hill. He also thanked Yat Cho, Public Works Department project manager, for his efforts on the Depot Street Project. He announced that the grand opening of the Depot Street project is scheduled for April 29, 2007 at 1:00 p.m. He stated that citizens will have an opportunity to view the full/life size statue entitled "Waiting for the Train" (Hiram Morgan Hill family at the train station waiting for the train) by Marlene Amerian, artist.

CITY COUNCIL REPORT

Council Member Lee reported that she is getting up to speed on everything associated with the City and thanked everyone for all their help and assistance. She stated that the Financial Policy Committee is still working on their workplan and other various items. She has asked that staff look at some of the processes conducted by the City in order to determine if there are better ways to perform these processes. She encouraged employees to come up with ideas and plans. She said that the Community & Economic Development Committee looked at some of the adopted 2007 Council Goals and discussed strategies for meeting these goals. She indicated that the Committee will be returning to the Council with a status report/recommendation by the end of the month.

CITY COUNCIL COMMITTEE REPORTS

CITY MANAGER REPORT

City Manager Tewes highlighted three items on the Consent Calendar: *Item 1* – The Library Monthly Construction Report. In light of the Council's proclamation of Library week, he reported that the City continues to make good progress, and that the new library construction is on schedule to be substantially completed with the City turning over the new building to the library system for the move during the first week of June. *Item 5* – A report on the Coyote Valley Specific Plan and the release of the Environmental Impact Report (EIR). He indicated that this item was placed on the consent calendar with a recommendation that a process be followed that would include opportunities to meet with South County stakeholders in order to provide comments on the EIR. He stated that the report, included in the Council's agenda packet, suggests the Council do so at its meeting of May 23, 2007. Subsequent to the preparation of the staff report, the Regional Planning & Transportation Committee met and recommends the Council consider a separate special meeting date to be held on May 30; inviting representatives from the City of Gilroy, School District, Gavilan Community College and others. He recommended the Council pull item 5 from the Consent Calendar to discuss the potential meeting schedule. *Item 9* – the monthly filing of the report from the Redevelopment Agency on its monthly financial status and investments. He informed the Council that although the staff report includes a recommendation, the agenda outline did not. He stated that it is staff's recommendation that this item remain on consent, but that the consent action be that the Council accept and file item 9.

CITY ATTORNEY REPORT

City Attorney Kern stated that she did not have a report to present this evening.

OTHER REPORTS

Mayor Tate indicated that he attends the monthly meetings of the Santa Clara County Cities Association. He stated that he distributed to the Council the summary of a meeting held by the Association. He said that the notion of the High Speed Rail, and the course it will take between northern California and southern California, has surfaced as a hot topic once again. He informed the Council that it is being advised that the City reassert its position in favor of the Pacheco Pass alignment for the High Speed Rail. He requested that staff agendize this item to allow the Council to reassert its position. He stated that a bill was introduced in the legislature that would allow the State to preempt local authority of a local jurisdiction offering benefits to a team (e.g., San Francisco 49ers) to relocate and move a stadium. The issue is whether a city should be able to retain its rights, or should the state preempt a city's right to determine whether it wants to offer benefits to this type of operation. The Cities Association is asking councils to take a negative position on this potential senate bill. He stated that a council member could ask that this item be placed on a future agenda as well.

Council Member Sellers said that as the Council's representative to the Valley Transportation Authority (VTA), the issue of High Speed Rail had come to the VTA Board's attention at its last meeting. Rod Diridon, Sr., High Speed Rail Authority Board Member, attended the VTA board meeting and indicated that a critical component to a southern route through this valley across Pacheco Pass is local support. He noted that the High Speed Rail Authority Board has not received support from the City of Gilroy, a critical city because it is the point where Gilroy would be considered a juncture. He felt that it would take a coordinated effort of the two mayors, working on this issue, as well as the community working

together, in order to present a unified voice in support of having this significant project come through this area. He recommended the City of Morgan Hill continue to coordinate with the City of Gilroy toward this effort.

City Treasurer Roorda presented the City Treasurer's Quarterly Report, as a member of the Financial Policy Committee. He stated that the typical interest has been the general fund as a focus of city finances. He presented a general fund status report three quarters of the way through the fiscal year. He stated that revenues tend to come in slowly at the beginning of the year, but increases in pace throughout the year. He said that expenses are related to costs in staff salaries, benefits, etc., and they tend to be spread evenly over the course of the year. Therefore, the City typically finds itself in a situation where it has to have some cash to finance its operations because of the way revenues come in. He said that revenues do not match expenses over the course of the year. He stated that it was initially projected that the City would end the year with a deficit, and that the projections tend to support this. He felt that there is some anticipation that the deficit may not be as large as the roughly \$800,000 originally projected. He indicated that the City has an ample general fund and that it allows the City to fund the imbalances over the course of the year without having to borrow money. Should the City end up in a deficit situation, the general fund would fund the deficit and still leave the City with a strong general fund. He indicated that property taxes are received late in the fiscal year. Therefore, in the fourth quarter, the City is expecting to get closer to the budgeted revenue numbers at the end of the fiscal year.

City Treasurer Roorda addressed expenditures; indicating that expenditures are running in line with what was anticipated/projected. He said that there is an anomaly with the Police Department which makes it appear as though their expenditures are running high; however, this is not the case. He stated that staff is making sure the budget will be under spent, and that they remain within budget, overall. In terms of the key aspects of the City's general fund, he indicated that the City is not in the position it was a couple of years ago. He noted that last fiscal year turned out to be a surprise. The City thought that it would come in at a deficit, but ended the year breaking even, with a small surplus. He did not believe the City would see this much of a positive surprise this year, but felt the City would end up better than what was initially anticipate. This is good news for the City; acknowledging that the general fund balance has helped buffer the City with cash flow needs, and would assist the City; should it face future difficult times.

PUBLIC COMMENT

Mayor/Chairman Tate opened the floor to public comments for items not appearing on this evening's agenda.

Cathy Moyer, Executive Director of Volunteers for Outdoor California, indicated that they perform large scale volunteer projects on public lands in partnership with public agencies. She announced that the first and southern most project this year will be at the Harvey Bear Ranch, County Park – Coyote Lake, a new Santa Clara County park. She said that approximately a mile of a brand new trail would be constructed for the Santa Clara County Park scheduled for May 5 and 6. She enticed as many council members, and members of the public to join 200 other volunteers who will be working on the trail; conducting some habitat restoration along the way. She stated that volunteers will be fed throughout the weekend, and that camping will be free to volunteers. She thanked the Council for considering co-sponsorship of this project on its consent agenda.

No further comments were offered.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Action: *On a motion by Council/Agency Member Sellers and seconded by Mayor Pro Tempore/Vice-chair Carr, the Council/Agency Board unanimously (5-0) **Adopted** the agenda as printed.*

City Council Action

CONSENT CALENDAR:

Mayor Tate requested that item 5 be removed from the Consent Calendar.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Lee, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-4, 6 and 7, as follows:*

1. **NEW LIBRARY PROJECT – MARCH CONSTRUCTION PROGRESS REPORT**

Action: **Information** Only.

2. **MARCH 2007 FINANCE & INVESTMENT REPORT – CITY**

Action: **Accepted** and **Filed** Report.

3. **AUTHORITY TO SIGN BELOW MARKET RATE (BMR) PROGRAM DOCUMENTS**

Action: **Authorized** the Assistant to the City Manager to Execute Certain Standard Agreements and Other Documents Relating to the BMR Program; Subject to Review and Approval by the City Attorney.

4. **CO-SPONSORSHIP OF VOLUNTEERS FOR OUTDOOR CALIFORNIA TRAIL-BUILDING PROJECT**

Action: **Co-sponsored** the Event.

6. **AGREEMENT WITH CSG CONSULTANTS INC. FOR BUILDING DIVISION IN-HOUSE PLAN CHECK AND RELATED SERVICES**

Action: **Authorized** the City Manager, Subject to Review and Approval by the City Attorney, to Execute the Agreement with CSG Consultants Inc.

7. **JOINT CITY COUNCIL SPECIAL MEETING AND LIBRARY CULTURE & ARTS COMMISSION SPECIAL MEETING OF APRIL 4, 2007**

Action: **Approved** as Submitted.

5. COYOTE VALLEY SPECIFIC PLAN – ENVIRONMENTAL IMPACT REPORT (EIR) REVIEW PROCESS

Mayor Tate, chairman of the Regional Planning & Transportation Committee, indicated that the City of San Jose has published the Environmental Impact Report (EIR) for Coyote Valley. He said that the City will be conducting research associated with the review of the EIR in order to take a position. He said that the City of San Jose has extended the response period to June 29, 2007. He indicated that over a year ago, the City conducted a series of meetings with stakeholders from South County on the Coyote Valley Plan. The stakeholders put off taking an official position until it received the EIR. He said that now that the EIR is available, the Committee is recommending that it be taken back to all interested South County stakeholders who attended previous meetings on the proposal to develop Coyote Valley. He stated that the purpose of the special Council meeting is to meet jointly with all stakeholders in order to work together in terms of taking a stand; including input on the Coyote Valley Plan EIR. The Committee is recommending that the Council hold a special meeting on Wednesday, May 30, 2007, 5:00 p.m., inviting all South County stakeholders to the meeting in order to finalize input on the EIR.

Council Member Sellers stated that the stakeholders being considered are the Morgan Hill Unified School District Board Members, and the City of Gilroy, as well as other jurisdictions. He said that the Regional Planning & Transportation Committee believes it critical for everyone to come together in order to provide comments on the EIR.

Mayor Tate indicated that other stakeholders would include San Martin representatives and the Realtors Association.

Action: *Council Member Sellers made a motion, seconded by Council Member Grzan, to schedule a special City Council meeting on Wednesday, May 30, 2007 at 5:00 p.m.; inviting all stakeholders to the meeting in order to provide input on the Coyote Valley Plan EIR. The motion carried unanimously (5-0).*

City Council Action

CONSENT CALENDAR:

Council Member Sellers requested that item 8 be removed from the consent calendar as he would be recusing himself from voting on said item. He excused himself from the Dais.

8. ADOPT ORDINANCE NO. 1823, NEW SERIES

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent, Waived the Reading, and Adopted Ordinance No. 1823, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.50.027 BY EXTENDING THE SUNSET DATE FOR THE EXEMPTION FOR ON-SITE PARKING REQUIREMENTS FOR COMMERCIAL/OFFICE USES WITHIN THE DOWNTOWN AREA. (ZA 07-04: CITY OF MORGAN HILL – DOWNTOWN PARKING EXEMPTION)***

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chair Carr and seconded by Agency Member Lee, the Redevelopment Agency Board unanimously (5-0) Approved Consent Calendar Item 9, as follows:*

9. **MARCH 2007 FINANCE & INVESTMENT REPORT – RDA**

Action: Accepted and Filed Report.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore/Vice-chair Carr and seconded by Council/Agency Member Lee, the City Council/Agency Board unanimously (5-0) Approved Consent Calendar Items 10-12, as follows:*

10. **GRANADA THEATER**

Action: Adopted Recommendations by the Council's Community and Economic Development Committee for the Redevelopment of the Granada Theater as a Community Asset.

11. **JOINT REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 28, 2007**

Action: Approved as Submitted.

12. **JOINT REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 4, 2007**

Action: Approved as Submitted.

City Council Action

PUBLIC HEARINGS:

13. **CONSIDERATION OF EXTENDING MEDICINAL MARIJUANA DISPENSARY MORATORIUM – Ordinance No. 1824, New Series**

City Attorney Kern requested the Council consider extending the medicinal marijuana dispensary moratorium. She noted that on March 7, 2007, the Council unanimously approved a 45-day moratorium in order to give staff the opportunity to conduct research on the proposed use due to the concern for the potential of a dispensary being located in the City of Morgan Hill. She indicated that the 45-day moratorium is due to expire on April 21, 2007. She informed the Council that staff completed the report, and that it was made available 10-days prior to this meeting as required by law. She said that the report indicates that the finding is that there remains so much uncertainty between federal and state law;

placing the City in a difficult position to determine whether or not it would be a problem to allow dispensaries to be located within the community. She stated that the Police Department believes there are substantial public health and safety issues associated with medicinal marijuana dispensaries. It was her belief that the Police Department staff would be suggesting banning, or regulating medicinal marijuana dispensaries, should the Council support said use in the community. She stated that staff is recommending the Council extend the moratorium for another 10 months and 15 days. During this period, staff will continue to monitor the situation. Should the legal issues be resolved, staff would return and report back to the Council in order to allow the Council to take whatever action it deems appropriate. Otherwise, staff would return to the Council at the end of the 10 months and 15 day period to determine whether the Council wishes to extend the moratorium for a similar period of time, regulate the use, or to allow the marketplace to take its course.

City Attorney Kern informed the Council that yesterday, the City of Salinas, who is on about the same schedule as the City of Morgan Hill for addressing similar issues, continued the moratorium for 10 months, and directed their staff to return with an ordinance banning medicinal marijuana dispensaries in the City of Salinas. She stated that the District Attorney, for the County of Monterey, presented evidence that medicinal marijuana dispensaries are illegal, and only allows a primary caregiver to dispense it. She clarified that the City has not received/heard an opinion from the Santa Clara County District Attorney's office on this matter. She further informed the Council that the State Attorney General has been asked, by Senator Sheila Kuehl, to render an opinion as to whether or not there would be potential criminal liabilities for council members who authorize medical marijuana facility(ies). She recommended the Council wait until it receives the State Attorney General's opinion before taking further action.

In response to Council Member Lee's inquiry as to the reason for the 10 months and 15 day recommended moratorium, City Attorney Kern stated that the time period is established by law. She clarified that the Council could ask staff to return prior to the 10 months and 15 day period for direction/action.

Mayor Tate opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Grzan stated that he was prepared to support staff's recommendation, but that he was not prepared to give staff direction on the matter of whether to ban or not ban medicinal marijuana dispensaries. He recommend that staff continue to monitor the matter, and that the Council continue to receive reports on what other agencies are doing; including possible liabilities to cities. He noted that the report before the Council makes mention of particular cases/situations where there was a robbery/hold up. He requested that what staff brings back in reports are the extraordinary situations that this particular type of business may subject the City to as opposed to what normal/typical businesses would be subject to.

Action: *On a motion by Council Member Grzan and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1824, New Series; **Extending** the Ordinance Prohibiting the Issuance of Permits, Entitlements, Licenses or any other Approvals for Medicinal Marijuana Dispensaries in the City of Morgan Hill for 10 Months and 15 Days.*

Action: *On a motion by Council Member Grzan and seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1824 , New Series by Title Only as follows: **AN INTERIM ORDINANCE PROHIBITING THE ISSUANCE OF PERMITS, ENTITLEMENTS, LICENSES, AND APPROVALS OF MEDICINAL MARIJUANA DISPENSARIES PENDING LEGAL OUTCOMES THAT SEEK TO CLARIFY THE LEGAL UNCERTAINTIES AND OPERATIONAL DIFFICULTIES WITH THE REGULATION OF MEDICINAL MARIJUANA DISPENSARIES** by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

14. AMENDMENTS TO DEVELOPMENT AGREEMENTS FOR ELEVEN (11) RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) PROJECTS – Ordinance Nos. 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, and 1835, New Series

Community Development Director Molloy Previsich presented the staff report on 11 proposed ordinances that would amend schedules associated with development agreements for residential projects approved under the City's Residential Development Control System. The amendments relate to applications: MP-03-04: Cochrane-Borello; MC-04-26: Cochrane-Mission Ranch; MC-04-25: Cochrane-Lupine; MC-04-19: East Main-Marrad/San Savigno; MP-02-03: Tilton-Glenrock; MMP-03-01: Native Dancer-Quail Meadows; MC-04-22: Jarvis-South Valley Developers/Madrone Plaza; MC-05-02: Jarvis-South County Housing/Madrone Plaza; MMC-04-07: Ginger-Custom One; MMC-04-06: San Pedro-Ahmadi; and MMC-04-05: Del Monte-Giovanni. She informed the Council that the Planning Commission adopted a policy last year that would stipulate that timelines for future development agreements would be adopted by Council resolution, and that future development agreement ordinances would contain the hard deadlines mandated by Measure C. She stated that this should reduce the frequency of needing to come before the Council with amendments associated with future timeline adjustments. Based on this policy, staff conducted outreach to residential projects. She indicated that staff is aware that the developers of the residential projects before the Council were getting concerned about their ability to meet timelines due to delays out of their control. Further, the soft housing market has created concerns about whether developers would be able to meet their existing development schedules. Eleven projects have come forward requesting amendments to get their timelines incorporated into resolutions. She indicated that the ordinances would include only the hard deadlines, and would adjust project deadlines.

Ms. Molloy Previsich informed the Council that each of the specific actions authorized by the ordinance amendments is listed in the staff report and on the cover page of the agenda fascia. She noted that for item K, the Del Monte-Giovanni project, the Planning Commission did not forward a recommendation of approval because there was no letter accompanying the applicant's request, and the fact that the applicant was not in attendance at the Planning Commission meeting to explain the reasons for the request for extension. It was her belief the applicant was in attendance this evening, and would address the Council. She informed the Council that the agenda packet includes an ordinance that would approve the requested time amendment for the project, should the Council wish to consider the applicant's request.

Mayor Tate disclosed that he received a phone call from the applicant today; indicating that the applicant related to him that the staff report to the Council was recommending against their extension.

Ms. Molloy Previsich informed the Council that the Planning Commission did not recommend approval of the ordinance because they did not believe the reasons for the request for an extension were adequately explained to them. She stated that staff communicated with the applicant, and suggested that the applicant appear before the Council to explain the reason(s) for the extension request as the Council may be persuaded to approve the ordinance amendment.

Council Member Grzan requested an explanation of item D, phasing the parks and recreation amenities, and the provision of below market rate units with a June 30, 2010 deadline.

Ms. Molloy Previsich indicated that this particular development agreement is not only adjusting the timelines of the original development agreement, but is also folding in timelines and commitments for fiscal year 2009-10 allocations. She clarified that the development agreement had not previously addressed the fiscal year 2009-10 allocations. Therefore, the development agreement is being amended to incorporate the commitments into the development agreement where they had not been previously addressed.

Planning Manager Rowe informed the Council that the way the development agreement is currently written, it requires the developer to provide the complete park area; turning the park over to the homeowners association at the front end of development. This would mean that the homeowners association would be burdened with maintenance responsibility for the park that will serve the entire project when only the initial phase of the homes are built. He stated that the prior developer/applicant had proposed to turn over the park to the homeowners association as part of the first phase of development. By deferring the transfer of the ownership of the common area to the end of the development would require the developer to be responsible for maintenance, and relieves the burden from the homeowners association until such time that they have sufficient numbers to maintain the park. He clarified that the park will be built and be made available to the homeowners, but that it would be the responsibility of the developer to maintain the park until such time that the project is completed.

Mayor Tate opened the public hearing.

Dick Oliver informed the Council that he represents projects A, B, C, D and E, and that he was in attendance to answer any questions the Council may have. In response to Council Member Grzan's question, he stated that the requirement contained in the initial development agreement had the dedication (turn over) of the park area to the homeowners with the first phase of development. He informed the Council that the Department of Real Estate reviews development agreements. Should the park be dedicated to the first phase homeowners, he would have to impose the fees to maintain the park upon the purchase of homes. Deferring dedication of the park to the final phase of development would ease the burden on the homeowners. He said that it would be to the homeowners' advantage to delay when they would have to pay for the additional homeowners fees to maintain the park. Until that occurs, the developer is responsible for park maintenance.

Gary Moore, project architect/designer, informed the Council that he was in attendance on behalf of the Giovanni group. He was asked to attend this evening's Council meeting to present an update on where the project is as far as the architectural documentation is concerned. He indicated that he is approximately two weeks from submitting documents to the structural engineer. He stated that MH Engineering had concerns, in working with the City's civil engineer, regarding the street configuration in front of the project. He said that this concern was worked out approximately 1-2 weeks ago. He said that he would be willing to answer any questions the Council may have relating to this aspect of the Del Monte Corners project. He informed the Council that he is trying to meet the existing timelines, and that he is looking at having the architectural documentation completed in 3-4 weeks. The structural work will take another 4-6 week. He stated that he could not speak for MH Engineering regarding Title 24 Energy Compliance or civil engineering. However, it was his belief they were moving forward post haste the last time he spoke with Bill McClintock. He said that the project is moving forward, and that the documentation will be ready to submit for plan check sometime the first or second week in June.

Mayor Tate said that Dan Gluhaich, applicant, indicated to him that he thought there was a minor chance that they could meet the timeline, but would probably need a 1-2 month extension; asking for a six month extension to have a safety margin.

Nancy Wright, project manager with South County Housing (item H), confirmed that the market and financing have been uncertain for all developers such that they are requiring more phasing and extending things out a bit further. It was her belief that South County Housing would be able to meet their deadlines, but indicated that they are at the mercy of lenders at this time.

No further comments being offered, the public hearing was closed.

A. MP-03-04: COCHRANE-BORELLO

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1825, New Series.*

B. MC-04-26: COCHRANE-MISSION RANCH

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1826, New Series.*

C. MC-04-25: COCHRANE-LUPINE

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1827, New Series.*

D. MC-04-19: EAST MAIN-MARRAD/SAN SAVIGNO

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1828, New Series.*

E. MP-02-03: TILTON-GLENROCK

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1829, New Series.*

F. MMP-03-01: NATIVE DANCER-QUAIL MEADOWS

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1830, New Series.*

G. MC-04-22: JARVIS-SOUTH VALLEY DEVELOPERS/MADRONE PLAZA

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1831, New Series.*

H. MC-05-02: JARVIS-SOUTH COUNTY HOUSING/MADRONE PLAZA

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1832, New Series.*

I. MMC-04-07: GINGER-CUSTOM ONE

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1833, New Series.*

J. MMC-04-06: SAN PEDRO-AHMADI

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1834, New Series.*

K. MMC-04-05: DEL MONTE-GIOVANNI

City Manager Tewes indicated that the specific change relating to this item is shown on page 185 of the agenda packet. He noted that this project is required to commence construction by June 30, 2007. It was

his understanding that the architect would be submitting architectural plans in early June. He said that it does not seem likely that the commencement of construction deadline can be met.

Mayor Tate stated that in his conversation with the applicant, he thought he would be a couple of months late, and that they are proceeding as quickly as possible. It was his recollection that there may have been a communication problem as to who would be attending the Planning Commission meeting.

Mayor Pro Tempore Carr noted that there are defined reasons, contained in the Municipal Code, as to reasons extensions could be requested. He did not have a way of judging whether this application meets the reasons/requirements for granting an extension because the Planning Commission did not hear the explanation. Granting a blanket six-month extension does not seem to respect the process others went through. If a proper explanation exists and the applicant can get the Planning Commission to consider/review the circumstances associated with this application, he felt the Commission can forward a recommendation to the Council.

Mayor Tate informed Mr. Gluhaich that Mayor Pro Tempore Carr was not comfortable with the fact that the Planning Commission was unable to take a position on the extension request because they were not presented with the justification(s) for taking a position.

Dan Gluhaich, applicant, indicated that his engineer is expected to be in attendance this evening. He said that there were several items that needed to be completed with the Public Works Department regarding improvements for a six-lot development. He stated that extensive road work was required on Del Monte Avenue with the proposed road extension; making the project infeasible. They worked with Public Works staff on this issue and that an agreement was reached. In turn, MH Engineering made changes to the map. He indicated that the map is now completed. He will be submitting the final map later this week. He informed the Council that Gary Moore, project architect, is working toward completion of the building plans, and that building plans will be submitted to the City soon. He stated that he has his financing in place in order to complete the project. He said that they are moving as quickly as possible. He stated that the reason for the extension request is to work out the road details with Public Works. He informed the Council that Public Works staff had them design a 60+ foot road for the extension of Del Monte Avenue; noting that this is only a six-lot project, not a 35-unit home development. He stated that he has invested a lot of money on this project between MH Engineering, architectural fees, and everything done to this point. He stated that the project is ready to move forward.

Mayor Pro Tempore Carr noted that every development has an issue with the Public Works Department. He did not know how it can be determined that this project meets the standards to grant a six month extension.

Planning Manager Rowe informed the Council that the information presented by Mr. Gluhaich this evening was not made available to the Planning Commission to determine the merits of the request for an extension. He indicated that the Planning Commission was neutral on the recommendation to the Council as they could not forward a recommendation due to the lack of information provided. It was his belief that it was the Planning Commission's thought that should the information be provided, in testimony to the Council, they would be comfortable with the Council moving forward with a recommended action. He acknowledged that many of the projects had to address offsite improvements; noting that this project involved the extension of a street as well as the removal of a storm water

detention facility on site. He said that there were several engineering issues that had to be overcome for a relatively small project. He noted that Mr. Gluhaich provided the Council with testimony this evening as to what was holding the project up. It appears the project has overcome most of the obstacles, and is close to proceeding. However, getting the plans submitted to the City before June 30, 2007 would not allow the applicant time to physically commence construction by June 30, 2007. Therefore, the project will need an extension beyond the June 30, 2007 deadline. He stated that a six month extension would not be an unreasonable time period to provide insurance time to the applicant.

Council Member Sellers noted that the Planning Commission recommended approval of extensions for other projects with similar circumstances. He felt that there is evidence that the Planning Commission's intent would be to act similarly on this item. Further, the Council received testimony this evening from the applicant clarifying the reasons for delay, particularly as it relates to Section 18.78.140 that states that extended delays on the environmental review for permit delays were not the result of developer inactions. He stated that he would be comfortable with moving forward with granting the extension.

Mayor Pro Tempore Carr stated his appreciation to staff and the applicant for their explanation of the reasons for delay.

K. MMC-04-05: DEL MONTE-GIOVANNI

Action: *On a motion by Council Member Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1835, New Series.*

A. MP-03-04: COCHRANE-BORELLO

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1825, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-04-06: COCHRANE-BORELLO TO ALLOW FOR A FOUR-MONTH EXTENSION TO COMMENCE CONSTRUCTION UNDER THE FISCAL YEAR 2006-2007 BUILDING ALLOTMENT** by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

B. MC-04-26: COCHRANE-MISSION RANCH

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1826, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-01: COCHRANE-MISSION RANCH TO ALLOW A FOUR-MONTH EXTENSION TO COMMENCE CONSTRUCTION OF THE FISCAL YEAR 2006-2007 AND INCORPORATION OF ALLOCATIONS FOR FISCAL YEAR 2009-2010** by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

C. MC-04-25: COCHRANE-LUPINE

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1827, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-02: COCHRANE-LUPINE TO ALLOW A SIX-MONTH EXTENSION TO COMMENCE CONSTRUCTION FOR THE FISCAL YEAR 2006-2007 BUILDING ALLOTMENT by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

D. MC-04-19: EAST MAIN-MARRAD/SAN SAVIGNO

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1828, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-04: EAST MAIN-MARRAD TO ALLOW FOR A FOUR-MONTH EXTENSION TO COMMENCE CONSTRUCTION FOR THE FISCAL YEAR 2006-2007 ALLOTMENT AND TWO-MONTH EXTENSIONS FOR THE FISCAL YEAR 2007-2008 AND FISCAL YEAR 2008-2009 ALLOTMENTS by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

E. MP-02-03: TILTON-GLENROCK

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1829, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-04-08: TILTON-GLENROCK AMENDING EXHIBIT B TO INCLUDE ONLY COMMENCEMENT OF CONSTRUCTION DATES by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

F. MMP-03-01: NATIVE DANCER-QUAIL MEADOWS

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1830, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-03-09: NATIVE DANCER – QUAIL MEADOWS TO ALLOW FOR A ONE-YEAR EXTENSION TO COMMENCE CONSTRUCTION OF THE FISCAL YEAR 2005-2006 BUILDING ALLOTMENT by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

G. MC-04-22: JARVIS-SOUTH VALLEY DEVELOPERS/MADRONE PLAZA

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1831, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-13: JARVIS – SOUTH VALLEY DEVELOPERS TO ALLOW SIX-MONTH EXTENSIONS TO COMMENCE CONSTRUCTION OF FISCAL YEAR 2006-2007 AND FISCAL YEAR 2007-2008 BUILDING ALLOTMENTS by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

H. MC-05-02: JARVIS-SOUTH COUNTY HOUSING/MADRONE PLAZA

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1832, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-06-03: JARVIS – SOUTH COUNTY HOUSING TO ALLOW SIX-MONTH EXTENSIONS TO COMMENCE CONSTRUCTION UNDER THE FISCAL YEAR 2007-2008 AND FISCAL YEAR 2008-2009 BUILDING ALLOTMENTS by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

I. MMC-04-07: GINGER-CUSTOM ONE

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1833, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-06: GINGER – CUSTOM ONE TO ALLOW FOR AN EIGHT-MONTH EXTENSION TO COMMENCE CONSTRUCTION OF THE FISCAL YEAR 2006-2007 BUILDING ALLOTMENT by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

J. MMC-04-06: SAN PEDRO-AHMADI

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1834, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-12: SAN PEDRO-AHMADI TO ALLOW A TWO-MONTH EXTENSION TO COMMENCE CONSTRUCTION OF THE FISCAL YEAR 2006-2007 BUILDING ALLOTMENT by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

K. MMC-04-05: DEL MONTE-GIOVANNI

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1835, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-09: DEL MONTE - GIOVANNI TO ALLOW A SIX-MONTH EXTENSION TO COMMENCE CONSTRUCTION UNDER THE FISCAL YEAR 2006-2007 BUILDING ALLOTMENT** by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Redevelopment Agency Action

PUBLIC HEARINGS:

15. CALIFORNIA YOUTH SOCCER ASSOCIATION (CYSA) OPERATING LEASE OF GRASS FIELDS AT OUTDOOR SPORTS CENTER

Special Assistant to the City Manager Spier informed the Council that on November 15, 2006, the Council authorized the Executive Director to extend the lease agreement with CYSA for the operations and maintenance of the grass fields at the outdoor sports center for a period of not more than five years, renewed annually. In the review of the proposed operating costs for phase I of the outdoor sports center, the Council/Agency Board directed staff to include, in the rental agreement, a rate for the artificial turf that is as close to 100% cost recovery as possible. Staff prepared the lease before the Agency Board; informing the Board that the CYSA Board reviewed the lease at their meeting of April 1, 2007, and that staff is proposing three amendments as outlined in the supplemental handout presented to the Council this evening. She stated that CYSA has indicated that it would cost them \$36,000 to 40,000 per field to maintain the nine fields with weekend use only.

Executive Director Tewes informed the Agency Board that it was his recollection that CYSA indicated that their annual maintenance costs would be approximately \$125,000 annually; including payment of electricity and pump tax with the use of a private well. He informed the Council that he would agree to provide the Agency Board with a five-year performa. He said that it was his recollection that it would cost the City approximately \$40,000 to maintain the synthetic fields, the parking lot and the new restroom. This amount is less the revenues attributable to the CYSA lease and the revenues attributable to renting out the fields that yields a net cost to the discretionary general fund of approximately \$40,000 annually.

Ms. Spier responded to questions relating to the use, revenue/expenditure projections, and the terms of the rental agreement.

Agency Member Grzan noted that the lease agreement does not include a clause that would stipulate termination of the lease, should the applicant fail to pay.

Agency Counsel Kern noted that Section 9 of the lease agreement includes a default provision. This section identifies the process/procedure that is to take place should there be a failure to pay rental fees.

Chairman Tate opened the public hearing. No comments being offered, the public hearing was closed.

Agency Member Grzan expressed concern that the City invested significantly to the artificial fields; however, when it comes to weekend use, the CYSA organization will have exclusive use of these fields. He stated that he felt uncomfortable giving CYSA exclusive use of the artificial turf fields for weekend use. It was his belief that priority use of the artificial fields on weekends should go to local youth groups. He inquired whether the CYSA organization would back out of the agreement should they not be given exclusive weekend use of the artificial fields.

Ms. Spier indicated that the deal points contained in the agreement before the Agency Board were brought before the Council/Agency Board twice previously. She said that the CYSA organization had been asking for exclusive use of the facility on the weekends; noting that this was a Redevelopment Agency directed item. She stated that the CYSA organization needs to know how many fields they would have access to if the City still wants them to bring tournaments and cup play to Morgan Hill. She informed the Council that 11 fields is CYSA's minimum need, and that they would require additional fields. However, City staff encouraged the CYSA organization to the use of the synthetic fields as it could increase the use of night time play. It was her belief that providing less than 11 fields would be a deterrent, and would require further discussions with the CYSA organization.

Agency Member Sellers recalled that the CYSA organization stated that they need a minimum of 11 fields. If the CYSA organization does not sign the agreement, it would force them to seek other alternatives as they would need to have enough fields for tournament play. It was his belief that the City would know well in advance when the fields would be used by the CYSA organization during the weekends as a schedule would be laid out.

Ms. Spier clarified that the CYSA organization has the first right of refusal. This means that the CYSA organization has priority in reserving weekend use of the fields. Once they submit a schedule to the Director of Recreation & Community Services and the facility is not being used, it would be opened to the City to allow usage based on the priority listing (e.g., youth resident groups). She informed the Agency Board that the CYSA organization's major tournament time is January thru April, and that they would start gearing up again in November. They have down time at this time; thus the construction of the facility at this time. She clarified that CYSA uses the facility approximately once or twice a month off season, and almost every weekend during the months of January thru April. She stated that the Pop Warner Football and Orchard Valley Youth Soccer organizations both requested a total of 15 days of weekend use between August and November; indicating that CYSA has agreed to this schedule in the lease. She said that there will be a good faith effort made, among all three groups, in working together to get play time for the two local organizations.

Action: *Agency Member Sellers made a motion, seconded by Vice-chair Carr, to **Authorize** the Executive Director to Execute the **Amended** Lease Agreement with the Youth Soccer Association for the Operations and Maintenance of the Grass Fields at the Center; Subject to Review and Approval by Agency Counsel.*

Agency Member Grzan stated that he remains uncomfortable with the amount the City is spending at this facility, and is still not getting the community to use the facility to the degree he would like it to be used. He would like to see the City's facility used 100% by the community on weekends. He said that he would not be supporting the motion at this time as he did not believe it would be in the best interest of the community.

Vice-chairman Carr appreciated Agency Member Grzan's comments as he would also like to see the community use the facility to a greater extent. However, until the City is at a place where it is ready and able to take over full maintenance of the site, the City needs to rely on rental fees. He appreciated that City staff worked toward a good faith effort with CYSA in order to negotiate the schedule, and to provide the opportunity for Morgan Hill residents/youth use of the fields; particularly the two groups that have been actively involved with the City from the beginning discussions about these fields (e.g., Morgan Hill Raiders and the Orchard Valley Youth Soccer). He trusts CYSA on their word that they would allow others to use the fields, and that the community will receive a lot of good access.

Vote: *The motion carried 4-1 with Agency Member Grzan voting no.*

City Council Action

OTHER BUSINESS:

16. POLICIES AND PROCEDURES FOR IMPLEMENTATION OF MEASURE F: 100 DOWNTOWN HOUSING ALLOTMENTS – Resolution No. 6091

Director of Community Development Molloy Previsich informed the Council that in November 2006, the voters approved Measure F; providing 100 additional residential allotments for the downtown core area. She stated that Measure F provides for the Council to establish procedures for scoring and awarding the 100 allotments. She indicated that the Planning Commission formed a subcommittee to review criteria, and developed a recommendation for Council consideration. She said that in light of the Downtown Plan update process, the Planning Commission is recommending delaying having a competition to distribute the 100 units. Once the Council establishes procedures that require a competition, it is being recommended that the Council reserve 18 of the 100 allotments specifically for micro projects of up to six units.

Ms. Molloy Previsich informed the Council that following conclusion of the subcommittee work, City staff received a letter from the owner of the Sunsweet site; a key opportunity site in the downtown core area. She stated that the Sunsweet site, consisting of several parcels, received 57 allotments to be allocated through Fiscal Years 2008-09 and 2009-10. She stated that Measure F allows earlier construction and completion, but limits the distribution of allotments to projects of 25 units or less. She indicated that the Sunsweet property opportunity site is zoned for 25-40 units per acre, and that the allotments awarded were for 57 units over the entire site. The developer has been hearing, over the past year, that the community decision makers wished the project was taking full advantage of the zoning contained in the downtown plan and general plan. Further, that the project would have a way to incorporate additional units. The letter states that the developer may consider reducing the footprint over which the existing 57 allotments are to be constructed. This would result in freeing up a portion of the Sunsweet property to pursue a second project.

Ms. Molloy Previsich informed the Council that the resolution before it modifies the subcommittee's recommendation and reflects staff's recommendation that the Council allow for the above type of situation to occur. Further, that the Council authorize a competition that would be available to sites that already have the zoning density in place. She said that there still remains a reason to hold out some of the 100 allotments until after the Downtown Plan update is completed because it recommends projects coming in at higher densities. She noted that there are a couple of projects that would be able to pursue higher densities as early as this year. Staff recommends the Council authorize the announcement of a 50 allotment downtown competition in the next month or two. Should the Council authorize a competition, applications would be due by September 2007, with the possibility of awarding allotments by the end of the calendar year 2007.

Council Member Sellers indicated that he had a conversation with Planning Manager Rowe earlier this evening. He felt that it would be good to have a mini competition this year for those projects that have existing allocations. He inquired whether the Council should set aside up to 50 allotments. He also inquired as to the maximum number of allotments that could be expected by developers.

Ms. Molloy Previsich informed the Council that Measure F authorizes allocations to a developer that proposes a project of 25 units or less. She noted that there are two opportunity sites in the downtown that could propose 25 unit projects. There may also be other sites that have projects that fit within the existing zoning that may decide to compete. Announcing a competition may result in the submittal of applications beyond the two opportunity sites. She clarified that the competition would be to allocate up to 50 allocations.

Council Member Sellers noted that the City is in the process of reviewing and updating the Downtown Plan, and that it is his hope that the update would be completed by the end of the year. Approval of the Downtown Plan update would necessitate general plan amendments. He said that part of what is being looked at, as part of the general plan amendments, are a series of design development guidelines. With said amendments, the City can state that these are the standards the City will hold developers to in the downtown area. He felt that the high development standards would be established.

Ms. Molloy Previsich clarified that the recommendation before the Council this is evening is that the City hold two competitions: up to 50 allotments could be awarded this year via a competition; and the remaining allotments would also be through a competition. She said that the subcommittee believes that higher quality projects would be submitted. However, staff does not know how many applications would come forward; noting that the competition awards the allotments to the most deserving project. The idea of continuing with competitions was supported by the subcommittee, and that this recommendation is included in the resolution before the Council. She indicated that the Council could defer a decision for the second group of allotments, or that it could state that it is expected that the Downtown Plan would contain minimum standards. Therefore, as long as the minimum standards are met, the City would not hold a competition for the second group of allotments. She indicated that the Council could defer this decision until the Downtown Plan update is completed.

Mayor Tate opened the floor to public comment. No comments were offered.

Council Member Sellers said that the Community & Economic Development Committee will be reviewing the Downtown Plan that would occur between now and the end of the year. The Committee anticipates the City would address parking and density changes. He felt that it was important for the Council to keep in mind that the City is trying to figure out a way to spur high quality development. Should a formal competition be held, everyone would start at the same level. He said that what has been found repeatedly is a reluctance, on the part of downtown property owners, to go through a similar process that the larger/sophisticated projects go through. He inquired whether it would be better to have a first-come, first-served process so that property owners with smaller projects can proceed as fast as possible in order to develop the best quality project; moving forward with these projects. He recommended the Council defer allocations of the second 50 units until such time that the Downtown Plan update is completed, and that a process be reviewed/considered.

Mayor Pro Tempore Carr noted that it is the idea that projects would not be larger than 25 units. Therefore, the City would expect that a project seeks allotments to complete their entire project, as a goal, in order to avoid phasing development over multiple years of competitions.

Mayor Tate stated his support of having a competition, but he understands that it is a different competition for the downtown. It was his belief that Council Member Sellers was stating that he would like to establish a high bar by implementing design standards. He stated his support of this recommendation. However, he did not know how you would differentiate beyond this with the exception of a first-come, first-served process. He stated that he has never supported a first-come, first served process. While he supports a competition, he does not mean that a full blown Measure C competition should be held. He felt that the City has learned a lot through the first couple of downtown Measure C competitions on how the City can streamline the competition; reducing the categories that can be differentiated. It was his belief that a competition needs to occur in order to get the best possible projects built; differentiating between projects.

Council Member Sellers said that the converse to Mayor Tate's comments would be that the City may have individuals with properties located in ideal locations and may be able to design an ideal project. However, these property owners tend to be reluctant, in moving forward, and do not end up in the initial competition. He recommended that as part of the Downtown Plan update the City determine where property owners are in the process, and determine if they would be ready to move forward. He would hate to allocate 50 units under Measure F only to find out that the City allocated the units to a project located on a side street. It could turn out to be that there is an ideal location on the middle of Monterey Road, but a property owner decides not to participate in a competition. He agreed that some form of a competition makes sense, and encourages working with the property owners.

Mayor Pro Tempore Carr noted that the Committee and staff talked about opportunity sites. He inquired whether the Committee was considering ranking the opportunity sites based on the Downtown Plan and where the Council wants the downtown to go. He expressed concern that the City would end up with a competition, or with a first-come, first-served process that would result in 50 units being constructed on side streets, and not where the Council envisioned the opportunity sites. In thinking about the second 50 units, he recommended weight be given to the site's location. Should the Council approve a high bar for the design standards and the City has a priority of where it would like the downtown units to go, this should be weighted in the process as well. He would like the City to work with property owners to inform them of the Council's priorities.

Mayor Tate suggested that the competition build in the notion that an opportunity site(s) is (are) preferred.

Council Member Grzan said that in ranking the different downtown opportunity sites, it may be that the number 3 ranked site would be developed; resulting in sites 1 and 2 being eventually built. He did not know if it would be a disadvantage in having a differently ranked site being built prior to the higher ranked opportunity sites.

Mayor Pro Tempore Carr said that should all 50 units be allocated to the third ranked site, it may result in sites 1 and 2 not being built. He noted that there are a finite number of units allocated to the downtown.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 6091; Approving Policies and Establishing Procedures for Implementing Measure F through a Competition; deferring the decision of whether or not to hold a competition on the second 50 units until the Council finalizes the Downtown Plan update.*

17. ADOPT ORDINANCE NO. 1822, NEW SERIES – Resolution No. 6092

Director of Community Development Molloy Previsich informed the Council that the final adoption of the ordinance was originally scheduled to take place on April 3, 2007. However, prior to Council adoption of the ordinance, the City received a letter from a Walnut Grove PUD area property owner who hired an attorney. The attorney posed several legal questions with respect to the ordinance. She informed the Council that staff has prepared a point by point analysis, and has provided additional information in response to the questions. She stated that it is staff's conclusion that they have adequately responded to the questions and provided the information to the property owner. Therefore, there would not be a need/reason for the Council to delay the second reading and final adoption of the ordinance. Staff suggests that prior to adoption of the ordinance; the Council adopts a resolution that places into the record the written responses to the property owner's representative's comments.

Mayor Tate opened the floor to public comment.

Dan Ehrler, Executive Director, Chamber of Commerce, informed the Council that the Chamber's mission is to provide quality service to its members, and to promote and develop a strong economic climate in Morgan Hill. He stated that the Chamber still believes that approval and moving forward with this action, the City would be supporting an action that will accomplish both. He was convinced that with the appropriate signage, it would provide the Chamber with the opportunity to direct individuals to their business. He felt that adoption of the ordinance will favorably impact the businesses in the surrounding area by having more traffic and potential shoppers/clients. He stated that with additional signage, in terms of directional signage, it will bring people to the downtown. Signs will direct individuals to a particular business which will ultimately brings them to additional businesses; a benefit to the community, as a whole. He requested the Council support this positive action.

No further comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 6092; Acknowledging Receipt of Correspondence from Joshua Safran, Attorney for DeRose Development LLC, and Providing an Analysis and Response to the Correspondence.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council **Waived** the Reading, and **Adopted** Ordinance No. 1822, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 18.76 (SIGN CODE) BY MODIFYING THE ELIGIBILITY REQUIREMENTS FOR FREEWAY SIGNS AND ESTABLISHING A PROCESS TO ALLOW AN OFF-SITE BUSINESS TO BE LOCATED ON A FREESTANDING MONUMENT SIGN (ZA 07-03: CITY OF MORGAN HILL – OFF-SITE SIGNS)** by the following roll call vote: AYES: Carr, Grzan, Lee, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

- SB 49 – Local Governmental Financial Assistance for Sports Franchises (Mayor Tate)
- Agreed to start the City Council Budget Workshop at 10:15 a.m. on Friday, May 18, 2007 (at the request of Mayor Tate)

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Council Kern announced the below listed closed session item.

1.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Authority:	Government Code 54956.8
Real Property Involved:	95 East Third Street (APN 726-14-001)
Negotiating Parties:	
For City/Agency:	City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services
For Property Owners:	Llagas Valley Investments, LLC/Depot Center Inc.
Closed Session Topic:	Acquisition of Real Property

City Council Action

CLOSED SESSION:

City Attorney Kern announced the below listed closed session item.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 1

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Tate opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Tate adjourned the meeting to Closed Session at 9:10 p.m.

RECONVENE

Mayor/Chairman Tate reconvened the meeting at 9:52 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Kern announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Tate adjourned the meeting at 9:53 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY